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2 THE HONORABLE BENJAMIN H. SETTLE
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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 IN TACOMA

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12 UNITED STATES OF AMERICA, for
13 the use and benefit TOTEM
14 ELECTRIC OF TACOMA, INC., a
Washington Corporation,

15 Plaintiff,

16 v.

17 LIBERTY MUTUAL INSURANCE
18 COMPANY, a foreign insurance
company; FIDELITY AND DEPOSIT
COMPANY OF
19 MARYLAND/ZURICH AMERICAN
INSURANCE COMPANY, a foreign
insurance company; and
20 CONTINENTAL CASUALTY
COMPANY, a foreign insurance
company,

21 Defendants.

22 CASE NO: 3:18-cv-06047

23 JOINT STIPULATION AND ORDER
TO CONSOLIDATE RELATED
24 ACTIONS

25 Assigned to: Hon. Benjamin H. Settle

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1 Plaintiff, Defendant, and Cross-Defendant Totem Electric of Tacoma
2 (“Totem”), Defendant Travelers Casualty and Surety Company of America
3 (“Travelers”), Plaintiff, Defendant, and Cross-Claimant RQ Construction, LLC
4 (“RQ”), Defendant Liberty Mutual Insurance Company (“Liberty”), Defendant
5 Fidelity and Deposit Company of Maryland (“F&D”), Defendant Zurich and Deposit
6 Company of Maryland (“Zurich”), Defendant Continental Casualty Company
7 (“Continental”), and Plaintiff System Tech Washington, Inc. (“STI”) hereby
8 stipulate and agree through their attorneys to be bound by the terms and provisions
9 of this Stipulation as follows:

10 **RECITALS**

11 A. On December 26, 2018, The United States of America, for the use and
12 Benefit of Totem commenced an action in the United States District Court Western
13 District of Washington in Tacoma entitled *The United States of America, for the use*
14 *and Benefit of Totem Electric of Tacoma, Inc. v. Liberty Mutual Insurance Company,*
15 *et al.*, Case No. 3:18-cv-06047-BHS, wherein Liberty, F&D, Zurich, and
16 Continental (collectively, “RQ’s Co-Sureties”) were named as defendants (the
17 “Original Action”).

18 B. On January 3, 2019, The United States of America, for the use and
19 Benefit of STI commenced an action in the United States District Court Western
20 District of Washington in Tacoma entitled *The United States of America, for the use*
21 *and Benefit of System Tech Washington, Inc. and System Tech Washington, Inc. v.*
22 *Totem Electric of Tacoma, Inc., et al.*, Case No. 3:19-cv-05006-BHS, wherein
23 Totem, Travelers, RQ, and RQ’s Co-Sureties were named as defendants (“Related
24 Action No. 1”).

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1 C. On January 10, 2019, RQ commenced an action in the United States
2 District Court Western District of Washington in Tacoma entitled *RQ Construction,*
3 *LLC v. Totem Electric of Tacoma, Inc. and Travelers Casualty and Surety Company*
4 *of America*, Case No. 3:19-cv-05031-BHS, wherein Totem and Travelers were
5 named as defendants (“Related Action No. 2”).

6 D. On January 18, 2019, Totem amended the Original Action by naming
7 RQ as defendant and adding related causes of action against RQ.

8 E. On January 22, 2019, RQ filed a cross-claim against Totem and
9 Travelers in Related Action No. 1.

10 F. The Original action, Related Action No. 1, and Related Action No. 2,
11 collectively the “Actions,” relate to the contract and Miller Act claims arising out of
12 the construction of a certain facilities and buildings at Joint Base Lewis-McCord in
13 Washington (the “Project”). RQ was the general contractor for the Project and
14 Totem was subcontracted to perform certain electrical and low-voltage work for the
15 Project. Totem subcontracted with STI to perform certain portions of the low-
16 voltage telecommunications work. Travelers furnished payment and performance
17 bonds for Totem’s work and performance of the subcontract. RQ’s Co-Sureties
18 furnished payment bonds for the Project.

19 G. The consolidation of the Actions would streamline the issues, avoid
20 unnecessary costs and delays, and advance the interest of judicial economy.
21 Therefore, the Parties, without waiver of any Party’s claims, rights or defenses, wish
22 to consolidate the Actions into a single proceeding (the “Consolidated Action”).

23 H. All Parties to the Actions are actively engaged in mediation
24 negotiations and agree that additional time to engage in the mediation process
25 would be beneficial. As such, the Parties agree that the chances of settlement would
26 be promoted if Joint Status Report and Discovery Plan as required by FRCP 26(f)
27 and Local Civil Rule 26(f) and the related deadlines for the FRCP 26(f) Conference
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1 and Initial Disclosures pursuant to FRCP 26(a)(1) from the Original Action are
2 maintained (Case 3:18-cv-06047, ECF No. 13).

3 I. All Parties to the Actions are represented in this Stipulation.

4 **STIPULATION**
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6 NOW THEREFORE, it is agreed and stipulated by the Parties, subject to the
7 Court's approval, as follows:

8 1. The Actions are hereby consolidated for all purposes under Case No.
9 3:18-cv-06047-BHS.

10 2. All trials and other deadlines in Cases Nos. 3:19-cv-05006-BHS and
11 3:19-cv-05031-BHS are vacated.

12 DATE: March 6, 2019

13 Respectfully submitted,

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1 DATE: March 6, 2019

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13 Plaintiff RQ Construction, LLC; and
14 Defendants Continental Casualty Company;
15 Fidelity and Deposit Company of Maryland;
16 Liberty Mutual Insurance Company; and
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18 DATE: March 6, 2019

19 Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been filed electronically on this 6th day of March 2019 and is available for viewing and downloading to the ECF registered counsel of record:

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10 ATTORNEYS FOR DEFENDANT
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14 DATED: March 13, 2019 in Seattle, Washington.

15 s/ Catherine A. Trimbour
16 Catherine A. Trimbour
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ORDER

The Court, having reviewed the foregoing Stipulation of the Parties, and good cause appearing therefore, IT IS ORDERED that, pursuant to Rule 42, the Parties' stipulation is adopted, and the following United States District Court Western District of Washington in Tacoma actions are consolidated for all purposes into one action:

1. *The United States of America, for the use and Benefit of Totem Electric of Tacoma, Inc. v. Liberty Mutual Insurance Company, et al.*, Case No. 3:18-cv-06047-BHS;
2. *The United States of America, for the use and Benefit of System Tech Washington, Inc. and System Tech Washington, Inc. v. Totem Electric of Tacoma, Inc., et al.*; Case No. 3:19-cv-05006-BHS; and
3. *RQ Construction, LLC v. Totem Electric of Tacoma, Inc. and Travelers Casualty and Surety Company of America*, Case No. 3:19-cv-05031-BHS;

IT IS FURTHER ORDERED that the Case No. 3:19-cv-05006-BHS and Case No. 3:19-cv-05031-BHS are hereby consolidated for all purposes under Case No. 3:18-cv-06047-BHS. All trials and other deadlines in Cases Nos. 3:19-cv-05006-BHS and 3:19-cv-05031-BHS are vacated.

IT IS SO ORDERED.

Dated this 13th day of March, 2019.

Frank J. Sutter

BENJAMIN H. SETTLE
United States District Judge